

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Khalil-Divine Black Sun-Allah,)	
)	C/A No. 4:16-0035-MBS
Plaintiff,)	
)	
vs.)	
)	
Bryan Stirling, Michael McCall, Sgt.)	ORDER AND OPINION
Michael Wentz, Cpl. Ciara Howard,)	
Lt. Maurice Green, Fred Thompson, and)	
Bernard McKie,)	
)	
Defendants.)	
)	

Plaintiff Khalil-Divine Black Sun-Allah, proceeding pro se and in forma pauperis, filed a complaint on January 6, 2016, alleging that Defendants deprived him of his constitutional rights. See 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling.

This matter is before the court on motion to dismiss filed by Defendants Michael Wentz, Ciara Howard, Maurice Green on July 28, 2016. By order filed July 29, 2016, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Magistrate Judge advised Plaintiff of the dismissal procedures and the possible consequences if he failed to respond adequately. Plaintiff filed no response to the motion to dismiss. On September 21, 2016, the Magistrate Judge issued a Report and Recommendation in which he recommended, among other things, that the complaint be dismissed for failure to prosecute.¹ See Fed. R. Civ. P. 41(b). Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

¹ By order filed August 17, 2016, Defendants Bryan Stirling, Michael McCall, Fred Thompson, and Bernard McKie were dismissed from the within action.

no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. Id. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court concurs in the recommendation of the Magistrate Judge. The within action is dismissed, with prejudice, for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

October 24, 2016.

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.